

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MATTHEW MCAFEE, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

DRAFTKINGS, INC.,

Defendant.



Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana

CASE NO. 1:24-cv-01168-JPH-MJD

The Court's December 5, 2024 Order to
Show Cause [Dkt. 69] is hereby
DISCHARGED.
Dated: 17 DEC 2024

VERIFIED RETURN TO ORDER TO SHOW CAUSE

Plaintiff, by counsel, responds as follows to the Court's Order to Show Cause

[Dkt. 69] dated December 5, 2024:

1. This matter was set for a telephonic pre-trial conference on December 5, 2024, at 11:30 a.m. Dkt. 59.
2. Counsel for Plaintiff did not appear for the pre-trial conference and has been ordered to show cause why he should not be sanctioned for the failure to attend. Dkt. 69.
3. Counsel for Plaintiff received the Minute Entry for November 7, 2024, setting the December 5, 2024, telephonic status conference. Dkt. 58.
4. Counsel for Plaintiff received the Notice of Teleconference Call-In Information on November 7, 2024. Dkt. 59.
5. The foregoing documents were saved by me to the appropriate client folder and the e-mails transmitting them were saved in the appropriate Outlook e-mail folder.
6. However, the telephonic status conference was not on my calendar for December 5, 2024.

7. I do my own calendaring.
8. The telephonic status conference should have been put on my calendar when I saved the documents and e-mails to the appropriate folder but it was not.
9. Despite significant investigation, I have not been able to determine why the telephonic status conference was not on my calendar.
10. The only explanation I can give is that it was my error in that apparently I did not do what I always do.
11. I deeply regret the waste of time and resources caused by my failure to appear and I sincerely apologize to opposing counsel and the Court.
12. I do not make it a regular practice to miss pre-trials and other orders to appear by this Court and I will do my best to make sure it does not happen again in this case or any other.

WHEREFORE, Counsel for Plaintiff respectfully requests that he not be sanctioned for his failure to attend the December 5, 2024, telephonic status conference.

Affirmation

I, Robert E. Duff, under penalty of perjury, do hereby affirm that the foregoing representations are true to the best of my knowledge.

/s/ Robert E. Duff
Robert E. Duff

Respectfully submitted,

Robert E. Duff, Atty No. 16392-06
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